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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

AMANDA ESCOBEDO,

Defendant and Appellant.

B286327

(Los Angeles County  
Super. Ct. No. BA455288)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Norman J. Shapiro, Judge. Affirmed.

Pamela J. Voich, under appointment by the  
Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler,  
Chief Assistant Attorney General, Lance E. Winters,  
Assistant Attorney General, Zee Rodriguez and Daniel C. Chang,  
Deputy Attorneys General, for Plaintiff and Respondent.

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Jurors convicted defendant Amanda Escobedo of robbery, rejecting her mistaken identity defense. At trial, defendant argued that jurors should discredit two eyewitness identifications of defendant. The jury verdict indicated that jurors found one or both eyewitnesses credible. On appeal, defendant argues the eyewitnesses lacked credibility. We reject defendant's attempt to relitigate credibility on appeal. "Issues of witness credibility are for the jury." (*People v. Boyer* (2006) 38 Cal.4th 412, 480.) We affirm the judgment.

## **FACTUAL AND PROCEDURAL BACKGROUND**

It was undisputed that on January 16, 2017, two women entered a 99 Plus Bargain Market owned by Chanteer and Benjamin Chai. The first woman took a canister used to inflate tires and left the store without paying for it. Chanteer approached the first woman and threatened to call the police. As Chanteer called 911, a second woman hit Chanteer multiple times. A 911 tape played for jurors included Chanteer's description of the robbery. Benjamin saw the second woman attack Chanteer. He assisted Chanteer by separating Chanteer and the second woman.

The principal issue at trial was whether defendant was the second woman.

### **1. Evidence that Defendant was the Woman Who Hit Chanteer**

Chanteer testified that she covered her face to protect it from being hit. She further testified that she saw the second woman's face before she covered her own face.

Immediately after the incident, Chanteer provided officers with a description of the second woman's approximate height,



color, age, and weight and further described the second woman as “skinny.” But Chanteer was unable to describe the second woman in more detail immediately after the incident. Chanteer did not identify defendant in a six-pack containing defendant’s photograph even though officers told her that they “caught your suspect.”

At trial, Chanteer testified that she saw defendant in the hallway before the preliminary hearing and recognized her. Chanteer pointed her out to an officer prior to the preliminary hearing. During the preliminary hearing, Chanteer identified defendant as the person who hit her. At trial, Chanteer testified that she was able to recognize defendant at the preliminary hearing because she saw her “whole body,” which was different from viewing only her face in the six-pack photographic line up. After the preliminary hearing, Chanteer told her husband Benjamin that she saw the person who hit her.

At trial, Benjamin identified defendant as the person who hit Chanteer on January 16, 2017. Benjamin testified that he had been standing approximately six or seven feet away when he saw defendant hit Chanteer. He testified that he observed defendant’s face. Benjamin expressed confidence that defendant was the person who hit Chanteer. Benjamin also testified that he recognized defendant outside of the courtroom when he was eating lunch in the courthouse.

Benjamin did not identify defendant in a six-pack photographic lineup containing her picture. Benjamin testified that he was unable to identify defendant’s picture because “sometimes the photo and the person doesn’t really match . . . .” Benjamin acknowledged that he watched the surveillance video



prior to his in-trial identification. Benjamin further testified that watching someone hit his wife was a stressful event.

Officer Sean Kim obtained a photograph of defendant. He believed that defendant's tattoos matched the tattoos of the person recorded on the surveillance video of the 99 Plus Bargain Store. Jurors watched the surveillance video, which depicted the person who hit Chanteer.

## **2. Jury Instructions**

The trial court instructed jurors that the "burden is on the People to prove beyond a reasonable doubt that the defendant is the person who committed the crime with which she is charged. [¶] If, after considering the circumstances of the identification and any other evidence in this case, you have a reasonable doubt whether defendant was the person who committed the crime, you must give the defendant the benefit of that doubt and find her not guilty."

The trial court also instructed jurors on factors to consider in proving identity by eyewitness testimony as follows: "Eyewitness testimony has been received in this trial for the purpose of identifying the defendant as the perpetrator of the crime charged. In determining the weight to be given eyewitness identification testimony, you should consider the believability of the eyewitness as well as other factors which bear upon the accuracy of the witness' identification of the defendant, including, but not limited to, any of the following:

"The opportunity of the witness to observe the alleged criminal act and the perpetrator of the act;

"The stress, if any, to which the witness was subjected at the time of the observation;



“The witness’ ability, following the observation, to provide a description of the perpetrator of the act;

“The extent to which the defendant either fits or does not fit the description of the perpetrator previously given by the witness;

“The cross-racial or ethnic nature of the identification;

“The witness’ capacity to make an identification;

“Whether the witness was able to identify the alleged perpetrator in a photographic lineup;

“The period of time between the alleged criminal act and the witness’ identification;

“Whether the witness had prior contacts with the alleged perpetrator;

“The extent to which the witness is either certain or uncertain of the identification;

“Whether the witness’ identification is in fact the product of his or her own recollection; and

“Any other evidence relating to the witness’ ability to make an identification.”

### **3. Defendant’s Argument**

At trial, defendant’s counsel argued that defendant was not the person who hit Chanteer. Counsel emphasized that Chanteer could not remember the physical description of the assailant immediately after the incident. Counsel pointed out that Chanteer could not identify defendant in a six-pack photographic lineup. Counsel argued it was beyond common sense to conclude that Chanteer “miraculously” identified defendant in the hallway in advance of the preliminary hearing “without any prodding.” Counsel argued that both Chanteer’s and Benjamin’s identifications were “suspect.”



Defendant's counsel further argued: "The factors looking at an eyewitness identification . . . are pretty serious factors, and they are serious because this is a serious matter." Counsel continued: "This was a stressful event." Counsel argued that Chanteer had a limited opportunity to view the person hitting her because Chanteer covered her face to protect it.

According to defense counsel, the person portrayed in the surveillance video was not defendant. Counsel argued that cross-racial identifications can be incorrect (and it appears that defendant was not the same race as Chanteer or Benjamin). Counsel argued that "certainty" in an eyewitness identification could not be equated with accuracy. Counsel warned jurors: "Don't be fooled by the certainty that they displayed on the witness stand . . . ."

#### **4. Verdict and Sentence**

Defendant was found guilty of one count of second degree robbery. The trial court suspended execution of a three-year prison sentence and placed her on probation for five years. Defendant timely appealed.

### **DISCUSSION**

On appeal, defendant argues that the prosecution failed to present substantial evidence to prove her identity as the person who hit Chanteer. "On appeal, the test of legal sufficiency is whether there is substantial evidence, i.e., evidence from which a reasonable trier of fact could conclude that the prosecution sustained its burden of proof beyond a reasonable doubt. [Citations.] Evidence meeting this standard satisfies constitutional due process and reliability concerns. [Citations.] [¶] While the appellate court must determine that the



supporting evidence is reasonable, inherently credible, and of solid value, the court must review the evidence in the light most favorable to the prosecution, and must presume every fact the jury could reasonably have deduced from the evidence.

[Citations.] Issues of witness credibility are for the jury.”

(*People v. Boyer, supra*, 38 Cal.4th at pp. 479-480.)

Contrary to defendant’s argument, the evidence sufficiently supported the conclusion that defendant hit Chanteer. The testimony of one eyewitness is sufficient to prove the identity of the person who committed a crime. (*People v. Boyer, supra*, 38 Cal.4th at p. 480.) In this case, two eyewitnesses identified defendant. Both Chanteer and Benjamin identified defendant in court. Chanteer also identified her in the hallway prior to the preliminary hearing and at the preliminary hearing. This evidence is sufficient to establish that defendant was the person who hit Chanteer during the course of the robbery. (See *People v. Cooks* (1983) 141 Cal.App.3d 224, 278 [testimony of eyewitness who was “ ‘90 percent sure’ ” of identification sufficient].)

On appeal, defendant questions the validity of Chanteer’s and Benjamin’s identification of defendant either at the preliminary hearing or at trial. Defendant did so in front of the jury as well. The jury simply did not accept defendant’s arguments aimed at discrediting Chanteer and Benjamin. On appeal, we may not reweigh the evidence or the jury’s credibility determinations. (*People v. Boyer, supra*, 38 Cal.4th at p. 480.)



**DISPOSITION**

The judgment is affirmed.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.